



May 3, 2002

Mr. Ronald D. Stutes  
Brown & Hofmeister, L.L.P.  
1717 Main Street, Suite 4300  
Dallas, Texas 75201

OR2002-2331

Dear Mr. Stutes:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 162508.

The Town of Flower Mound (the "town"), which you represent, received a request for a specified police report. You claim that the requested information is excepted from disclosure under sections 552.101 and 552.108 of the Government Code. We have considered the exceptions you claim and have reviewed the submitted information.

Section 552.101 of the Government Code excepts "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Section 261.201(a) of the Family Code provides as follows:

(a) The following information is confidential, is not subject to public release under Chapter 552, Government Code, and may be disclosed only for purposes consistent with this code and applicable federal or state law or under rules adopted by an investigating agency:

- (1) a report of alleged or suspected abuse or neglect made under this chapter and the identity of the person making the report; and
- (2) except as otherwise provided in this section, the files, reports, records, communications, and working papers used or developed in an investigation under this chapter or in providing services as a result of an investigation.

After reviewing your arguments and the submitted information, we conclude that the submitted report does not constitute information "used or developed in an investigation" under chapter 261. Therefore, we conclude that none of the information may be withheld under section 261.201 of the Family Code.

You also claim that the submitted information is excepted from disclosure under section 552.108 of the Government Code. Section 552.108(a)(2) of the Government Code provides that information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime is excepted from required public disclosure if:

- (2) it is information that deals with the detection, investigation, or prosecution of crime only in relation to an investigation that did not result in conviction or deferred adjudication

Gov't Code § 552.108(a)(2). You represent that the submitted report pertains to a case which did not result in conviction or deferred adjudication. Upon review of your arguments and the submitted information, we conclude that section 552.108(a)(2) applies to the report.

However, section 552.108 does not except from disclosure basic information about an arrested person, an arrest, or a crime. Gov't Code § 552.108(c). In this regard, you contend that none of the information in the report comes within the definition of basic information under section 552.108(c) because the investigation did not result in an arrest. As this office noted in Open Records Decision No. 597 (1991), the availability of information in offense reports has been the subject of numerous court cases and attorney general opinions (citing *Houston Chronicle Pub. Co. v. City of Houston*, 508 S.W.2d 177 (Tex.Civ.App.--Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex.1976); *Heard v. Houston Post Co.*, 684 S.W.2d 210 (Tex.Ct.App.--Houston [1st Dist.] 1985, no writ); Open Records Decisions Nos. 366, 362 (1983), 339 (1982), 216 (1978), 181, 164 (1977), 134, 127 (1976)). Those decisions have consistently held that the following basic information in offense reports is generally available to the public<sup>1</sup>: the offense committed, location, identification and description of complainant, premises, time of the occurrence, property involved, vehicles involved, weather, details of the offense in question, and the names of the investigating officers.<sup>2</sup> See ORD No. 12. Pursuant to section 552.108(c), you may not withhold these types of information about a possible crime. The remaining submitted information may be withheld under section 552.108.

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<sup>1</sup>This office has recognized exceptions for names of victims of sexual offenses, Open Records Decision No. 339 (1982) and for information regarding arrests for narcotics offenses where release of the information would unduly interfere with law enforcement, Open Records Decision No. 362 (1983).

<sup>2</sup>The information on the front page of the offense report you have submitted is the type of information held to be available to the public.

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.--Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Texas Building and Procurement Commission at 512/475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. We note that a third party may challenge this ruling by filing suit seeking to withhold information from a requestor. Gov't Code

§ 552.325. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,

A handwritten signature in cursive script that reads "Kristen Bates".

Kristen Bates  
Assistant Attorney General  
Open Records Division

KAB/seg

Ref: ID# 162508

Enc: Submitted documents

c: Ms. Nathalie Armour  
7100 Crosstimbers  
Flower Mound, Texas 75022  
(w/o enclosures)